IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 21976 OF 2005

Date: 07.10.2005

BETWEEN:

1. Veera Padmini Ushachaya Suryamani and another

…. PETITIONERS

And

1. Special Chief Secretary to Government, Revenue (LA) Department, Government of Andhra Pradesh, Secretariat Buildings, Hyderabad, and others.

…. RESPONDENTS

HONOURABLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No. 21976 OF 2005

ORDER:

The first petitioner is a resident of Amalapuram and the second petitioner is a resident of Uppongala, Tallarevu Mandal, East Godavari District. They own lands in S.No.114/1, 115/2B, 115/3B and 115/3A2 of Sunkarapalem village in Tallarevu Mandal. Aggrieved by notification issued by the Government of Andhra Pradesh under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act'), proposing to acquire an extent of Acs.55.47 in various survey numbers in Sunkarapalem village, for the purpose of construction of Summer Storage Tank for the use of Pondicherry Government, they filed the instant writ petition seeking invalidation of the said notification.

The learned counsel for the petitioner in support of the writ petition *inter alia* raised three grounds. Firstly, the land acquisition for union territory of Pondicherry is not permissible under the Act by the Government of Andhra Pradesh. Secondly, the petitioners

are small farmers and therefore, their lands cannot be acquired, and thirdly, in exercise of powers under Section 17(4) of the Act, the enquiry under Section 5A is dispensed with in a routine manner without application of mind, and there is no urgency for invoking Section 17(4) of the Act.

Learned Assistant Government Pleader at the preliminary stage itself has obtained necessary instructions and submits that on considering the request of the Government of Pondicherry, the State Government decided to acquire the land in the boarder limits of State of Andhra Pradesh in the interest of public to augment water supply system for the people of Yanam subject to condition that the entire amount of acquisition of land shall be borne by the Government of Pondicherry. There cannot be any denial of the historical Act that most of the residents in Yanam town are Telugu speaking people, and when the Government of Pondicherry takes up a project to augment the water supply to those people, there cannot be any objection for the Government of Andhra Pradesh to acquire the land. Further, a reading of Section 3(ee) and Section 3(f) define the terms “appropriate Government” and “Public purpose” respectively, would show that any project taken by the Central Government or State Government falls within the definition of expression “public purpose”, which is an “inclusive” definition. As per the provisions in Part VIII of the Constitution of India, the administration of Union Territory is entrusted to Central Government, and therefore, though the Government of Pondicherry sent requisition, in effect the acquisition shall have to be deemed as an acquisition for Central Government.

The argument that the petitioners are small farmers cannot be accepted. It is now well settled that the executive instructions to that effect do not confer any right to such an extent to divest the state of its eminent domain power to acquire the land. The notification was issued on 16.9.2005 for the purpose of construction of Summer Storage Tank. Now that summer is over. The petitioners can be given opportunity to make a representation to raise all other objections before the Land Acquisition Officer, the third respondent herein by filing a representation, within a period of one week from the date of receipt of a copy of this order. As and when such representation is made, the Revenue Divisional Officer may inspect the lands of the petitioners for acquisition, and send a report to the District Collector. This exercise may be completed within a period of one week after receipt of representation. Till then, if the petitioners are in possession, there shall be status quo for a period of two weeks.

The Writ Petition is accordingly disposed of at the admission stage.

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(**V.V.S. RAO, J.)**

7th October, 2005

JsZ